

REMARKS

Favorable consideration of this application in view of the foregoing amendments and the following comments is respectfully requested.

Claims 61, 64, 66, 68, 73, 78 and 81-88 are pending in the application, with Claim 61 being the only independent claim. Claims 62, 63, 65, 67, 69-72, 74-77, 79 and 80 have been cancelled herein without prejudice. Claims 61, 66, 68 and 82 have been amended herein.

Applicants submit that support for the amendments can be found, for example, at least at page 6, lines 17-19 and page 4, lines 1-7 of the specification. Therefore, no new matter has been added.

Applicants thank the Examiner for the courtesies extended to Applicants' representative during the interview conducted on July 26, 2006. During the interview, various possible claim amendments were discussed. Specifically, the Examiner indicated that amending Claim 61 to recite the features of Claim 67 would overcome the § 103 rejection over U.S. Patent No. 3,928,656 (Strella et al.) in view of U.S. Patent No. 5,854,365 (Ohno et al.). Additionally, a Declaration under 37 C.F.R. 1.132 was discussed. The Examiner indicated that such a Declaration may be sufficient to overcome the § 103 rejection over U.S. Patent No. 3,991,007 (Perronin et al.) in view of Strella et al. and the § 103 rejection over Perronin et al.

In the Office Action, Claims 61-66 and 87 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Strella et al. in view of Ohno et al. Without conceding the propriety of the rejection, and as discussed in the interview, Applicants have amended Claim 61 to recite the features of Claim 67. Applicants submit that the proposed combination of Strella et al. and Ohno et al. fails to teach or suggest at least a non-aqueous solvent selected from the group consisting of aliphatic ketones, aromatic ketones, aliphatic alcohols, aromatic alcohols, glycol

ethers, esters, and benzoates, as recited in Claim 61. Accordingly, Applicants request reconsideration and withdrawal of the § 103 rejection over Strella et al. in view of Ohno et al.

Claims 61-72 and 81-88 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Perronin et al. in view of Strella et al. Claims 61-72 and 81-88 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Perronin et al. These rejections are traversed.

Applicants' invention, as recited in independent Claim 61, as amended, is directed to a pigmented nail enamel composition. The composition includes a mixture of (i) a solution of a film-forming addition polymer, of ethylenically unsaturated monomers, in non-aqueous solvent selected from the group consisting of aliphatic ketones, aromatic ketones, aliphatic alcohols, aromatic alcohols, glycol ethers, esters, and benzoates, and (ii) 0.1-30%, by weight of the composition, of pigment comprising at least one member selected from the group consisting of iron oxides, D&C colors, FD&C colors, and titanium dioxide. The polymer consists of a copolymer of acrylic acid and butyl methacrylate that contains about 5-14 wt.% acrylic acid. The polymer has a glass transition temperature in the range of 5 to 90° C. The polymer constitutes about 5-95 wt.% of the composition, and the composition is suitable for application to human nails.

Applicants submit that the cited references fail to teach or suggest many features of Applicants' claimed invention.

Perronin et al. is directed to a process for the preparation of pigmentary particles coated with an organic polymer and compositions resulting therefrom. Perronin et al. discloses use of a polymer 90/10 methyl methacrylate/acrylic acid copolymer. As the Examiner

recognizes, Perronin et al. fails to teach or suggest use of a butyl methacrylate/acrylic acid copolymer, as recited in independent Claim 61 of the subject application. The Examiner suggests, however, that use of such a polymer would have been obvious to one of ordinary skill in the art either in view of the teaching of butyl methacrylate/acrylic acid copolymers in Strella et al. or based on the teaching of Perronin et al. Applicants respectfully disagree.

As indicated in the Declaration Under 37 C.F.R. 1.132 submitted concurrently herewith, the composition formed according to Example 6 of Perronin et al., which recites use of a 90/10 methyl methacrylate/acrylic acid copolymer, is not suitable for use as a nail enamel because it is too hard, and is prone to cracking and tearing. In contrast, compositions formed using a butyl methacrylate/acrylic acid copolymer were surprisingly better than the composition formed using the methyl methacrylate/acrylic acid copolymer disclosed in Perronin et al. The compositions utilizing a butyl methacrylate/acrylic acid copolymer are softer and are not prone to cracking and tearing. These properties make such compositions suitable for use as nail enamels.

In view of unexpected results demonstrated in the concurrently filed Declaration Under 37 C.F.R. 1.132, Applicants submit that that neither Perronin et al. nor Perronin et al. combined with Strella et al., as proposed by the Examiner, render obvious at least a pigmented nail enamel composition having a polymer that consists of a copolymer of acrylic acid and butyl methacrylate that contains about 5-14 wt.% acrylic acid, as recited in Claim 61. Accordingly, Applicants request reconsideration and withdrawal of the § 103 rejection over Perronin et al. in view of Strella et al. and the § 103 rejection over Perronin et al.

Applicants respectfully submit that the present invention is patentably defined by independent Claim 61. Dependent Claims 64, 66, 68, 73, 78 and 81-88 are also allowable, in their own right, for defining features of the present invention in addition to those recited in Claim 61. Individual consideration of each of the dependent claims is requested.

Applicants submit that the present application is in condition for allowance. Favorable consideration, and an early Notice of Allowability are requested.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

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